

PT 96-8
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

GOOD HOPE MISSIONARY)		
BAPTIST CHURCH)		
)		
Applicant)		
)	Docket #	93-16-1050
v.)		
)	Parcel Index #s	20-32-206-001
THE DEPARTMENT OF REVENUE)		20-32-206-002
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. John W. Mauck appeared on behalf of the Good Hope Missionary Baptist Church (hereinafter referred to as the "applicant").

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on January 10, 1996, to determine whether or not Cook County parcels numbered 20-32-206-001 and 20-32-206-002 qualify for exemption from real estate tax for the 1993 assessment year.

Rev. Edward Clark, pastor of the applicant, testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of these parcels during the 1993 assessment year. The second issue is whether the applicant is a religious and/or charitable organization. The last issue is whether these parcels were used by the applicant for religious or charitable purposes during the 1993 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned the parcels here in issue during all of the 1993 assessment year. It is also determined that the applicant qualifies as a religious and

charitable organization. Finally, it is determined that the applicant used these parcels and the two story building located thereon for charitable purposes during all of the 1993 assessment year.

Findings of Fact:

1. On April 6, 1994, the Cook County Board of Appeals transmitted an Application for Property Tax Exemption To Board of Appeals concerning these parcels for the 1993 assessment year, to the Illinois Department of Revenue (hereinafter referred to as the "Department"). (Dept. Ex. No. 1)

2. On April 20, 1995, the Department notified the applicant that it was denying the exemption of these parcels for the 1993 assessment year. (Dept. Ex. No. 2)

3. By a letter dated June 1, 1995, Rev. Edward Clark, the pastor of the applicant, requested a formal hearing in this matter. (Dept. Ex. No. 3)

4. The hearing in this matter, held on January 10, 1996 was held pursuant to that request.

5. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois on August 7, 1990, for the following purposes:

To advance the kingdom of Jesus Christ, through public worship of God, consistent living by the members of the fellowship, personal evangelism, missionary endeavor, and christian education.
To preach the word of God to all men. (Appl. Ex. No. 1)

6. During 1993, the applicant's sanctuary where religious worship services were held was located at 7101 South Union in Chicago. (Tr. p. 10)

7. During 1993, the applicants primary sources of fund were tithes, offerings and donations. (Dept. Ex. 1K)

8. During 1993, the applicant had approximately 150 members and an average attendance at Sunday worship services of approximately 100. (Tr. pp. 17 & 18)

9. During 1993, the applicant held worship services on Wednesday mornings at 11:00 A.M. and on Wednesday evenings at 7:00 P.M. On Thursday evenings, the applicant held worship services at 7:00 P.M. The applicant also held worship

services on Sunday mornings at 9:00 A.M. which lasted into the evening. (Tr. p. 18)

10. The street address of the parcels here in issue and the two story building located thereon is 857 West 79th Street. This property is approximately 8 blocks from the applicant's present church building. (Tr. p. 17)

11. The applicant acquired the parcels here in issue by a warranty deed dated April 6, 1981. (Dept. Ex. 1C)

12. During 1993, the applicant distributed food to anyone who requested it, on Wednesdays, Thursdays and Fridays, at the building on these parcels. While the primary purpose of the applicant's food distribution program was to help the poor and homeless, the applicant gave food to anyone who requested it. (Tr. pp. 11 & 12)

13. During 1993, the applicant also recieved donated clothing which was available for sale at the building on these parcels. The clothing, which was available for sale, was nominally priced. For example a pair of pants would be priced at 15 cents or a quarter. If a person indicated that they could not pay for the clothing, it was given to them. (Tr. p. 13)

14. During 1993, the applicant's food distribution and clothing resale programs occupied the entire first floor of the building on these parcels. The second floor of the building on these parcels was used for the storage of canned goods and clothing, during 1993. (Tr. p. 15)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 205/19.2 exempts certain property from taxation in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,....

35 **ILCS** 205/19.7 exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurry College v. Wright, 38 Ill.2d 272 (1967).

Based on the foregoing findings of fact, I conclude that the applicant owned the parcels here in issue and the 2 story building located thereon, during the entire 1993 assessment year. I further conclude, based on the findings of fact, that the applicant is a religious organization.

The Illinois Supreme Court in the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), set forth six guidelines to be used in determining whether or not property is being used for charitable purposes. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects

and purposes expressed in the charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes.

Based on the foregoing findings that the applicant is organized pursuant to the Illinois Not For Profit Corporation Act, its primary source of funds is donations, the food is given away and the clothing is given away in cases of need, I conclude that the applicant meets each of the foregoing six guidelines.

The Illinois Courts have previously held that real estate owned by religious and charitable organizations which is used for charitable purposes, qualifies for exemption from real estate tax. The Congregational Sunday School and Publishing Society v. Board of Review, 290 Ill. 108 (1919) and Inter-Varsity Christian Fellowship v. Hoffman, 62 Ill.App.3d 798 (2nd Dist. 1978).

Based on the foregoing I conclude that the applicant, a religious and charitable organization, owned the parcels here in issue during the entire 1993 assessment year, and used said parcels for primarily charitable purposes during that year.

I therefore recommend that Cook County parcels numbered 20-32-206-001 and 20-32-206-002 be exempt from real estate tax for the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
May ,1996